

**Maine Revised Statutes**  
**Title 35-A: PUBLIC UTILITIES**  
**Chapter 1: ORGANIZATION, GENERAL POWERS AND DUTIES**

**§122. ENERGY INFRASTRUCTURE CORRIDORS**

*(WHOLE SECTION TEXT EFFECTIVE UNTIL 7/30/17)*

*(WHOLE SECTION TEXT REPEALED 7/30/17)*

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Department" means the Department of Environmental Protection. [2007, c. 656, Pt. A, §3 (NEW).]

B. "Energy infrastructure" includes electric transmission and distribution facilities, natural gas transmission lines, carbon dioxide pipelines and other energy transport pipelines or conduits. "Energy infrastructure" does not include:

- (1) Generation interconnection transmission facilities;
- (2) Energy generation facilities; or
- (3) Electric transmission and distribution facilities or energy transport pipelines that cross an energy infrastructure corridor or are within an energy infrastructure corridor for a distance of less than 5 miles. [2009, c. 655, Pt. A, §2 (AMD).]

C. "Energy infrastructure corridor" means a geographic area within the State designated in accordance with this section for the purposes of siting energy infrastructure. "Energy infrastructure corridor" includes statutory corridors and petitioned corridors. [2009, c. 655, Pt. A, §2 (AMD).]

D. "Generation interconnection transmission facility" has the same meaning as in section 3132, subsection 1-B. [2007, c. 656, Pt. A, §3 (NEW).]

D-1. "Petitioned corridor" means an energy infrastructure corridor designated by the commission in accordance with subsection 2. [2009, c. 655, Pt. A, §2 (NEW).]

E. "Potential developer" means a person that can demonstrate to the commission the financial and technical capability to engage in the development and construction of energy infrastructure. [2009, c. 655, Pt. A, §2 (AMD).]

F. "Project" means the development or construction of energy infrastructure within an energy infrastructure corridor. [2007, c. 656, Pt. A, §3 (NEW).]

F-1. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person who submitted the information and would make available information not otherwise publicly available. [2009, c. 655, Pt. A, §2 (NEW).]

F-2. "Searsport-Loring corridor" means the real estate, real property rights and easements and infrastructure associated with the pipeline existing on the effective date of this paragraph and associated easement corridor extending from Searsport to the former Loring Air Force Base in Limestone, Maine, as granted and conveyed by the United States Air Force to the Loring Development Authority of Maine in 2005, together with such additional rights, property, easement scope and physical rights of way as may have been or may be acquired, as are necessary to effectuate the intent of the parties to the leases, easements and agreements existing on the effective date of this paragraph and as may be reasonably necessary or desirable to further develop the Searsport-Loring corridor as a statutory corridor for use pursuant to subsection 1-B. [2009, c. 655, Pt. A, §2 (NEW).]

F-3. "State-owned" means owned by the State or by a state agency or state authority. [ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

F-4. "Statutory corridor" means an energy infrastructure corridor designated under subsection 1-A. [ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

G. "Tribe" includes the Penobscot Nation, as defined in Title 30, section 6203, subsection 10; the Passamaquoddy Tribe, as defined in Title 30, section 6203, subsection 7; the Houlton Band of Maliseet Indians, as defined in Title 30, section 6203, subsection 2 and the Aroostook Band of Micmacs, as defined in Title 30, section 7202, subsection 1. [ 2007 , c . 656 , Pt . A , §3 (NEW) . ]

[ 2009 , c . 655 , Pt . A , §2 (AMD) . ]

**1-A. Statutory corridors designated.** The following areas are designated as statutory corridors:

A. The Interstate 95 corridor, including that portion of Interstate 95 designated as the Maine Turnpike, in accordance with the provisions of subsection 1-C; [ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

B. The Interstate 295 corridor; and [ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

C. The Searsport-Loring corridor, subject to the following provisions.

(1) The Searsport-Loring corridor may be used, developed and expanded for energy infrastructure consistent with any leases, easements or other agreements in effect on the effective date of this subsection. It is not a statutory corridor until the expiration or termination of such leases, easements or other agreements.

(2) The executive director of the Loring Development Authority of Maine shall notify the Interagency Review Panel under subsection 1-B when any leases, easements or other agreements in effect on the effective date of this subsection affecting or otherwise pertaining to the Searsport-Loring corridor have expired or otherwise terminated. [ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

[ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

**1-B. Use of statutory corridors; Interagency Review Panel.** The Interagency Review Panel, as established in Title 5, section 12004-G, subsection 30-D and referred to in this subsection as "the panel," shall oversee the use of statutory corridors in accordance with this section.

A. The panel includes the following members:

(1) The Director of the Governor's Energy Office within the Executive Department or the director's designee;

(2) The Commissioner of Administrative and Financial Services or the commissioner's designee;

(3) The commissioner of each department or the director of any other state agency or authority that owns or controls land or assets within the statutory corridor under consideration or that commissioner's or director's designee;

(4) Four members of the public appointed by the Governor in accordance with this subparagraph, subject to review by the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and to confirmation by the Senate:

(a) One member with expertise in energy and utilities selected from candidates nominated by the President of the Senate;

(b) One member with expertise in real estate or finance selected from candidates nominated by the President of the Senate;

(c) One member representing industrial or commercial energy consumers selected from candidates nominated by the Speaker of the House; and

- (d) One member representing residential energy consumers selected from candidates nominated by the Speaker of the House.

Public members serve 3-year terms, except that a vacancy must be filled for the unexpired portion of the term. A public member serves until a successor is appointed. A public member may serve a maximum of 2 consecutive terms. Compensation of public members is as provided in Title 5, section 12004-G, subsection 30-D;

- (5) The Public Advocate; and

- (6) The Director of the Governor's Office of Policy and Management within the Executive Department or the director's designee. [2013, c. 360, §1 (AMD).]

B. The panel shall identify an initial range of value for the use of state-owned land or assets within a statutory corridor. The initial range of value must be determined by a professional appraiser who meets the qualifications of paragraph F. [2009, c. 655, Pt. A, §2 (NEW).]

C. The panel shall establish and implement a regular process for soliciting, accepting and evaluating energy infrastructure proposals for use of a statutory corridor. As part of this process, the panel shall provide public notice of the availability of the statutory corridor for energy infrastructure development, a description of the type of development anticipated in the statutory corridor and the opportunity for potential developers to submit proposals for use of the statutory corridor. [2009, c. 655, Pt. A, §2 (NEW).]

D. The panel shall evaluate and render a decision on an energy infrastructure proposal for use of a statutory corridor in accordance with subsection 1-D. The decision must be approved by the Governor prior to the entry by the State into a binding contract for use of a statutory corridor pursuant to this section. [2013, c. 360, §2 (AMD).]

E. If a proposal is accepted pursuant to subsection 1-D, the panel may enter into negotiations with the potential developer who submitted the proposal regarding a long-term occupancy agreement with the State for the use of the statutory corridor, in accordance with this paragraph.

(1) The panel shall negotiate the terms of the occupancy agreement, including but not limited to the length of the agreement and compensation to the State for use of the statutory corridor and any conditions of use. In negotiating the occupancy agreement, the panel shall take into account existing legal commitments, contractual obligations, reasonable investment-backed expectations and relevant prior state investments, when applicable.

(2) Compensation to the State may be in the form of payments made on an annual basis or the functional or financial equivalent, discounted prices for energy products or services, partial ownership by the State of the energy infrastructure on the basis of the value of the statutory corridor in proportion to the energy infrastructure as a whole, or other appropriate form. The terms of compensation may include provisions for periodic adjustment of the compensation to the State over time and reimbursement of costs to any state agency or authority that owns or controls land or assets within the statutory corridor.

(3) Negotiation of compensation to the State must be based on at least one independent appraisal performed by a professional appraiser in accordance with paragraph F. An independent appraisal performed under this subparagraph must, at a minimum, consider the costs that will be avoided by the potential developer, including but not limited to the costs of acquisition, lease or rental of private land, the costs of property taxes on private land, the costs of surveying, appraisal, environmental, engineering and other work necessary for use of private land, the costs of time and potential conflict regarding the use of private land, the unique and limited nature of the state-owned land or asset, the revenues estimated to be generated by the use of the state-owned land or asset and other relevant factors.

(4) Any occupancy agreement entered into under this section for the use of any portion of the Interstate 95 corridor that is designated as the Maine Turnpike must comply with the memorandum of agreement between the Department of Transportation and the Maine Turnpike Authority pursuant to subsection 1-C. [2009, c. 655, Pt. A, §2 (NEW).]

F. The panel shall contract for the services of a professional appraiser or appraisers to assist the panel in its duties under this subsection. The professional appraiser contracted under this paragraph must:

- (1) Have demonstrated experience in the valuation and evaluation of utility corridors or transportation corridors;
- (2) Hold a professional designation from a nationally recognized organization of appraisers; and
- (3) Be licensed by this State as a certified general real property appraiser in accordance with Title 32, section 14035 or hold a comparable license from another state.

The cost of the services of a professional appraiser who provides services in accordance with this paragraph must be paid by potential developers submitting proposals for use of the corridor under this subsection in proportion to the amount of time spent by the appraiser on each potential developer's proposal. Payments for appraisal costs collected from potential developers may be expended for the costs of appraisal services and to pay member expenses as authorized under Title 5, section 12004-G, subsection 30-D. [2013, c. 360, §3 (AMD).]

G. The following proprietary information, as it pertains to the sale, lease or use of state-owned land or assets under the provisions of this subsection or activities in preparation for such sale, lease or use, is confidential within the meaning of Title 1, section 402, subsection 3, paragraph A and may not be released by the panel or the state agency or authority involved:

- (1) Proprietary information in the possession of the state agency or authority; and
- (2) Proprietary information in the possession of the panel or a professional appraiser assisting the panel. [2009, c. 655, Pt. A, §2 (NEW).]

H. No later than February 1st of each year, the panel shall provide a written report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters that documents the activities of and actions taken by the panel under this subsection during the previous calendar year. [2009, c. 655, Pt. A, §2 (NEW).]

I. The panel may adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2009, c. 655, Pt. A, §2 (NEW).]

[2013, c. 360, §§1-3 (AMD).]

#### **1-C. Maine Turnpike Authority; memorandum of agreement; approval of occupancy agreements.**

The Maine Turnpike Authority shall negotiate the terms of and enter into a memorandum of agreement with the Department of Transportation, consistent with paragraph A, to govern the conditions under which the Maine Turnpike Authority will grant an occupancy agreement for use of Maine Turnpike Authority property as part of the Interstate 95 statutory corridor. The Maine Turnpike Authority shall approve the terms of any occupancy agreement for use of Maine Turnpike Authority property within the Interstate 95 corridor that is consistent with the memorandum of agreement.

A. The terms of the memorandum of agreement must provide for:

- (1) Application of reasonable engineering standards of the Maine Turnpike Authority to the location and design of energy infrastructure on Maine Turnpike Authority property within the Interstate 95 statutory corridor;

(2) The right of the Maine Turnpike Authority to review and approve all construction, reconstruction, expansion, improvement, maintenance or operation of energy infrastructure on Maine Turnpike Authority property as part of the Interstate 95 statutory corridor in accordance with reasonable engineering standards of the Maine Turnpike Authority. The Maine Turnpike Authority may not unreasonably withhold approval under this subparagraph;

(3) The right of the Maine Turnpike Authority to require relocation or reconfiguration of any portion of energy infrastructure and all related installations on Maine Turnpike Authority property within the Interstate 95 statutory corridor at the sole cost of the owner of the energy infrastructure so affected when and to the extent that such relocation or reconfiguration is reasonably necessary for the construction, reconstruction, expansion, improvement, maintenance or operation of the Maine Turnpike;

(4) The right of the Maine Turnpike Authority to regulate access to Maine Turnpike Authority property within the Interstate 95 statutory corridor in a reasonable manner that is consistent with the safe and proper administration of the Maine Turnpike as a limited access highway; and

(5) Reimbursement to the Maine Turnpike Authority of any reasonable costs it may incur in relation to use of the Maine Turnpike as part of the Interstate 95 statutory corridor, including, but not limited to, reasonable costs of review and inspection of design, construction, maintenance or repair of energy infrastructure and related operational costs, including, but not limited to, those for traffic control and other measures that are required to accommodate construction, maintenance or repair of energy infrastructure. [ 2009, c. 655, Pt. A, §2 (NEW). ]

B. The Maine Turnpike Authority shall take all reasonable precautions, without forgoing or redesigning projects that it considers necessary or convenient for operation of the Maine Turnpike, to avoid material interference with the development of energy infrastructure on Maine Turnpike Authority property as part of the Interstate 95 statutory corridor. [ 2009, c. 655, Pt. A, §2 (NEW). ]

[ 2009, c. 655, Pt. A, §2 (NEW). ]

**1-D. Energy infrastructure proposal; decision criteria.** The deciding authority shall evaluate and render a decision on an energy infrastructure proposal in accordance with this subsection. For the purposes of this subsection, "deciding authority" means the Interagency Review Panel acting under subsection 1-B, paragraph D and subject to the approval of the Governor, or the Public Utilities Commission acting under subsection 5-A or section 3132, subsection 6-A.

A. The deciding authority may approve an energy infrastructure proposal only if the deciding authority finds that the proposal:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

(2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the value of those rates, prices or costs but for the proposed energy infrastructure development or, if the deciding authority is unable to determine to its satisfaction the impact of the proposal on rates, prices or costs, the owner or operator of the proposed energy infrastructure agrees to pay annually an amount of money, determined by the deciding authority, to reduce rates, prices or costs over the life of the proposed energy infrastructure; and

(3) Is in the long-term public interest of the State, based on a determination made in accordance with paragraph B. [ 2009, c. 655, Pt. A, §2 (NEW). ]

B. The deciding authority shall determine whether an energy infrastructure proposal is in the long-term public interest of the State. In making that determination, the deciding authority shall, at a minimum, consider the extent to which the proposal:

(1) Materially enhances or does not harm transmission opportunities for energy generation within the State;

- (2) Is reasonably likely to reduce electric rates or other relevant energy prices or costs for residents and businesses within the State relative to the expected value of those electric rates or other energy prices or costs but for the proposed energy infrastructure development;
- (3) Increases long-term economic benefits for the State, including but not limited to direct financial benefits, employment opportunities and economic development;
- (4) Ensures efficient use of the statutory corridor through collocation of energy infrastructure, collaboration between energy infrastructure developers and the preservation of options for future uses;
- (5) Minimizes conflict with the public purposes for which the state-owned land or asset is owned and any management plans for the land or asset within the statutory corridor and, when necessary, mitigates unavoidable impacts;
- (6) Limits and mitigates the effects of energy infrastructure on the landscape, including but not limited to using underground installation when economically and technically feasible;
- (7) Increases the energy reliability, security and independence of the State; and
- (8) Reduces the release of greenhouse gases. [ 2009 , c . 655 , Pt . A , §2 (NEW) . ]

[ 2013 , c . 360 , §4 (AMD) . ]

**2. Designation of petitioned corridors.** The commission may, upon petition, designate petitioned corridors in accordance with this subsection.

A. The commission may designate a petitioned corridor only by rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

- (1) The rulemaking to designate a petitioned corridor must include a public hearing in which any member of the public may submit oral or written testimony or comments, which must be incorporated into the rule-making record in accordance with Title 5, section 8052, subsection 1. The commission shall provide an opportunity for examination of the petitioner at a rule-making hearing. The commission shall allow for written comments by any member of the public up to 7 days prior to the hearing. The commission shall allow a second round of written comments to be filed within 10 days of the hearing or within such longer time as the commission may direct.
- (2) In any rulemaking regarding the designation of a petitioned corridor, the commission shall address all written comments, including those submitted pursuant to subsection 3, and state its rationale for adopting or rejecting any proposals or recommendations contained in those written comments.
- (3) A designation of a petitioned corridor must be based on substantial evidence in the record of the rule-making hearing. [ 2009 , c . 655 , Pt . A , §2 (AMD) . ]

B. The commission may commence a proceeding to designate a petitioned corridor only upon the filing of a petition for the designation of a petitioned corridor by the Office of the Public Advocate, the Executive Department, Governor's Energy Office or a potential developer. [ 2011 , c . 655 , Pt . MM , §15 (AMD) ; 2011 , c . 655 , Pt . MM , §26 (AFF) . ]

C. The commission shall dismiss a petition for the designation of a petitioned corridor filed under this subsection if, on the basis of a preliminary review, the commission determines that the petition:

- (1) Does not contain sufficient information to support the designation of a petitioned corridor; or
- (2) Was filed by a person other than a person listed in paragraph B. [ 2009 , c . 655 , Pt . A , §2 (AMD) . ]

D. The commission may designate a petitioned corridor only if the commission finds, after consultation with state agencies and other entities as required under subsection 3, that a statutory corridor, a previously designated petitioned corridor or an abandoned railroad corridor owned or controlled by the Department of Transportation cannot meet the needs of the proposed energy infrastructure and that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be:

(1) In the public interest, including, but not limited to, consideration of:

- (a) Encouraging collocation of energy infrastructure;
- (b) Enhancing the efficient utilization of existing energy infrastructure; and
- (c) Limiting impacts on the landscape; and

(2) Consistent with environmental and land use laws and rules of the State. A finding that the future development of energy infrastructure within the petitioned corridor is reasonably likely to be consistent with environmental and land use laws and rules of the State under this paragraph has no evidentiary value in a subsequent consolidated environmental permit proceeding undertaken by the department pursuant to subsection 6. [2009, c. 655, Pt. A, §2 (AMD).]

E. In designating a petitioned corridor, the commission shall limit the geographic area of the petitioned corridor to an area no greater in breadth and scope than is necessary to achieve the purposes of this section. [2009, c. 655, Pt. A, §2 (AMD).]

F. The commission may not designate a petitioned corridor in any of the following lands:

- (1) Houlton Band Trust Land, as defined in Title 30, section 6203, subsection 2-A;
- (2) Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6;
- (3) Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9;
- (4) Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2;
- (5) Lands that constitute a park as defined in Title 12, section 1801, subsection 7 and Baxter State Park;
- (6) Federally owned land; and
- (7) The Maine Turnpike, as described in Title 23, section 1964, subsection 9. [2009, c. 655, Pt. A, §2 (AMD).]

[2011, c. 655, Pt. MM, §15 (AMD); 2011, c. 655, Pt. MM, §26 (AFF).]

**3. Petitioned corridors; notification and consultation prior to designation.** Prior to designating a petitioned corridor under subsection 2, the commission shall, at a minimum, notify, consult with and accept comments from:

A. The department; [2007, c. 656, Pt. A, §3 (NEW).]

A-1. A state agency that owns or controls land or assets within the proposed corridor, within a statutory corridor or within a previously designated petitioned corridor; [2009, c. 655, Pt. A, §2 (NEW).]

A-2. The Department of Transportation regarding potential use of abandoned railroad corridors owned or controlled by the department; [2009, c. 655, Pt. A, §2 (NEW).]

B. Appropriate state and federal energy and natural resources protection agencies, as specified by rules adopted pursuant to subsection 9; [2007, c. 656, Pt. A, §3 (NEW).]

C. The municipalities in which the petitioned corridor would be located; [2009, c. 655, Pt. A, §2 (AMD).]

D. The Maine Land Use Planning Commission and the counties in which the petitioned corridor would be located, if the petitioned corridor, or any portion of the petitioned corridor, would be located within unorganized or deorganized territories of the State; and [2009, c. 655, Pt. A, §2 (AMD); 2011, c. 682, §38 (REV).]

E. A tribe, if the petitioned corridor, or any portion of the petitioned corridor, would be located on land of a tribe other than those lands specified in subsection 2, paragraph F. [2009, c. 655, Pt. A, §2 (AMD).]

[ 2009, c. 655, Pt. A, §2 (AMD); 2011, c. 682, §38 (REV) .]

#### **4. Use of corridors; certificate and permit required.**

[ 2009, c. 655, Pt. A, §2 (RP) .]

**4-A. Use of energy infrastructure corridors; requirements.** Development or construction of energy infrastructure within an energy infrastructure corridor is governed by this subsection.

A. A person may not engage in development or construction of energy infrastructure within a statutory corridor, unless:

- (1) The person has entered into an occupancy agreement with the Interagency Review Panel in accordance with subsection 1-B and, if applicable, with the Maine Turnpike Authority in accordance with subsection 1-C, and in compliance with applicable state and federal rules, regulations and laws;
- (2) The department has issued a consolidated environmental permit for the project in accordance with subsection 6; and
- (3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity for the transmission line. [2009, c. 655, Pt. A, §2 (NEW).]

B. A person may not engage in development or construction of energy infrastructure within a petitioned corridor, unless:

- (1) The department has issued a consolidated environmental permit for the project in accordance with subsection 6;
- (2) The commission has issued a corridor use certificate for the project in accordance with subsection 5-A; and
- (3) If the project is a transmission line that requires a certificate of public convenience and necessity under section 3132, the commission has issued a certificate of public convenience and necessity approving the transmission line. [2009, c. 655, Pt. A, §2 (NEW).]

[ 2009, c. 655, Pt. A, §2 (NEW) .]

#### **5. Corridor use certificate.**

[ 2009, c. 655, Pt. A, §2 (RP) .]

**5-A. Corridor use certificate.** Whenever a person proposes to develop or construct energy infrastructure within a petitioned corridor, that person shall file with the commission a petition for a corridor use certificate. The petition for the corridor use certificate must contain such information as the commission by rule requires. The commission shall process a petition for a corridor use certificate in an adjudicatory proceeding. The commission shall evaluate and render a decision on any petition for a corridor use certificate in accordance with subsection 1-D. A certificate issued under this subsection must specify the terms and conditions of use of the petitioned corridor. The commission shall establish by rule procedures to minimize



duplicative filing and review requirements for the corridor use certificate for any transmission line that requires a certificate of public convenience and necessity under section 3132. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 655, Pt. A, §2 (NEW) .]

**6. Environmental review; consolidated environmental permit.** Whenever a person proposes to develop or construct energy infrastructure within an energy infrastructure corridor, that person shall file with the department an application for a consolidated environmental permit. The department may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. A consolidated environmental permit issued by the department takes the place of any other permits or licenses that the department would otherwise require for the proposed project. [2007, c. 656, Pt. A, §3 (NEW).]

B. The application for a consolidated environmental permit must contain such information as the department requires, including, but not limited to, all studies and documentation necessary to determine whether the proposed project is in compliance with the environmental laws of the State administered by the department. [2007, c. 656, Pt. A, §3 (NEW).]

C. The applicant for a consolidated environmental permit shall pay a fee no greater than the total amount of fees that would be required if individual permits were obtained by the applicant rather than the consolidated environmental permit and reimburse the department for any additional costs of regulatory review, including expenses for outside peer review or other consultants or experts assisting the department in its review. Outside review of applications under this subsection is governed by Title 38, section 344-A, except that the Commissioner of Environmental Protection is not required to obtain the consent of the applicant to enter into an agreement with an outside reviewer or require that the costs of the outside review be reimbursed by the applicant. [2009, c. 655, Pt. A, §2 (AMD).]

D. The department shall issue its decision on an application for a consolidated environmental permit within a timeframe specified by department guideline. The decision may specify approval, denial or approval in part and denial in part. A proposed project may not be undertaken if it is denied in whole or in part by the department. [2009, c. 655, Pt. A, §2 (AMD).]

E. Upon issuance of a consolidated environmental permit, the department shall certify to the commission that the permit has been issued and whether the proposed project complies, in part or in whole, with the environmental laws of the State administered by the department and whether other agencies and programs that are required by law to issue separate approvals for some or all aspects of the project have taken final agency action on those matters requiring their separate approval. [2007, c. 656, Pt. A, §3 (NEW).]

F. The department shall enforce the terms of the consolidated environmental permit. [2007, c. 656, Pt. A, §3 (NEW).]

G. The terms of the consolidated environmental permit may require additional submissions by the permit holder, studies and approvals with conditions. [2007, c. 656, Pt. A, §3 (NEW).]

[ 2009, c. 655, Pt. A, §2 (AMD) .]

**6-A. Revenues.** Except as otherwise provided by subsection 1-C or any other law, including the Constitution of Maine, revenues generated from the use of state-owned land and assets within energy infrastructure corridors must be deposited in the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

[ 2009, c. 655, Pt. A, §2 (NEW) .]

**6-B. Revenue from energy infrastructure corridors.** Notwithstanding subsection 6-A, 20% of the revenues generated from the use of statutory corridors designated under subsection 1-A, paragraphs A and B owned by the Department of Transportation within energy infrastructure corridors must be deposited into the Secondary Road Program Fund established in Title 23, section 1803-C and 80% of the revenues must be deposited into the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

[ 2013, c. 369, Pt. A, §1 (AMD) . ]

**7. Eminent domain.** This subsection grants and limits certain rights of eminent domain with respect to energy infrastructure corridors.

A. The eminent domain authority of a transmission and distribution utility within an energy infrastructure corridor is governed by section 3136. [ 2007, c. 656, Pt. A, §3 (NEW) . ]

B. Subject to approval by the commission, a person that is not a transmission and distribution utility that receives a certificate of public convenience and necessity under section 3132 or a corridor use certificate under subsection 5-A to develop energy infrastructure within an energy infrastructure corridor may take and hold by right of eminent domain lands and easements within that corridor necessary for the proper location of the energy infrastructure covered by the certificate of public convenience and necessity or the corridor use certificate in the same manner and under the same conditions as set forth in chapter 65. The right of eminent domain granted in this paragraph does not apply to:

- (1) Lands or easements located within 300 feet of an inhabited dwelling;
- (2) Lands or easements on or adjacent to any developed or undeveloped water power;
- (3) Lands or easements so closely paralleling existing wire lines of other utilities or existing energy transport pipelines that the proposed energy infrastructure would substantially interfere with service rendered over the existing lines or pipelines, except with the consent of the owners;
- (4) Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311;
- (5) Lands or easements owned by the State or an agency or authority of the State; and
- (6) Transmission and distribution plant that is owned, controlled, operated or managed by a transmission and distribution utility on the effective date of this section. [ 2009, c. 655, Pt. A, §2 (AMD) . ]

C. The commission may take and hold by right of eminent domain lands and easements within an energy infrastructure corridor in accordance with this paragraph, notwithstanding any transmission and distribution utility ownership of the lands or easements.

- (1) The commission may exercise the authority under this paragraph only in an adjudicatory proceeding upon a petition by the Office of the Public Advocate or the Executive Department, Governor's Energy Office demonstrating that such action is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor. A determination by the commission that the exercise of eminent domain under this paragraph is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor constitutes reviewable final agency action.
- (2) The amount of any lands or easements taken by the commission pursuant to this subsection may be no greater than is required to avoid the harm to electricity consumers identified under subparagraph (1).
- (3) The right of eminent domain granted in this paragraph does not apply to personal property, fixtures or improvements that constitute transmission and distribution plant or an energy transport pipeline.

(4) The commission may exercise the right of eminent domain for the purposes of this paragraph in the same manner and under the same conditions as set forth in chapter 65. For the purposes of the exercise of eminent domain authorized by this paragraph, the commission is both a person and the State.

(5) The commission is authorized to assess transmission and distribution utilities to the extent necessary to obtain sufficient funds to pay for lands and easements taken pursuant to this subsection.

(6) The commission, in an adjudicatory proceeding upon petition by the Office of the Public Advocate or the Executive Department, Governor's Energy Office, may transfer or convey to any person or state agency or authority lands and easements once acquired, except that a transmission and distribution utility or the owner of an energy transport pipeline whose lands or easements were taken pursuant to this paragraph must be given the first opportunity to acquire the lands or easements to the extent necessary or useful in the performance of its duties as a transmission and distribution utility or an owner of an energy transport pipeline.

(7) The commission shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters during the next regular session of the Legislature following the acquisition of lands or easements by eminent domain. [2011, c. 655, Pt. MM, §16 (AMD); 2011, c. 655, Pt. MM, §26 (AFF).]

[ 2011, c. 655, Pt. MM, §16 (AMD); 2011, c. 655, Pt. MM, §26 (AFF) .]

**8. Utility service territory.** Nothing in this section modifies existing restrictions on entities providing service within a public utility's service territory provided under chapter 21.

[ 2007, c. 656, Pt. A, §3 (NEW) .]

## **9. Rules.**

[ 2009, c. 655, Pt. A, §2 (RP) .]

**10. Repeal.** This section is repealed July 30, 2017.

[ 2013, c. 360, §5 (AMD) .]

## **SECTION HISTORY**

2007, c. 656, Pt. A, §3 (NEW). 2009, c. 655, Pt. A, §2 (AMD). 2011, c. 652, §13 (AMD). 2011, c. 652, §14 (AFF). 2011, c. 655, Pt. MM, §§14-16 (AMD). 2011, c. 655, Pt. MM, §26 (AFF). 2011, c. 682, §38 (REV). 2013, c. 360, §§1-5 (AMD). 2013, c. 369, Pt. A, §1 (AMD).

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